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Date 10/11/90

Surname [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

AUG 28 1990

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. For the reasons stated below, we conclude that you do not qualify for tax exemption under this section.

You were incorporated on [REDACTED], under the [REDACTED] Nonprofit Corporation Act. Your articles of incorporation state that you are organized and operated for educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code. The purposes for which you were formed, and the business and objects to be carried on and promoted by you, are to assist in providing educational programs and seminars for the general business community, the interested public, and the educational community in the area of international trade.

In response to Part III, question 3 of Form 1023, you state that the aim of your programs will be to explain and research international trade opportunities and how to work with the international community. You plan to operate "[REDACTED]" ([REDACTED]) which is designed to assist business to use federal assisted export programs such as U.S. Agency for International Development (AID) in establishing overseas markets. Your services are available on a fee-for-service basis. You state in a sample solicitation that [REDACTED] will provide businesses with a single, localized consulting source on virtually any problem relating to AID commodity procurement contract tenders. The solicitation states that [REDACTED] will "relieve the burden of handling AID documentation, and will provide [businesses] with the information [they] need, when [they] need it, which will establish a strong foothold for [the business] in export marketing's next frontier. Your material even states that you are sure that [REDACTED] will be in the subscriber/business' "best interest."

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The sample application for subscription to [REDACTED] states that for an annual subscriber fee of \$[REDACTED], the subscriber receives the following: (1) information on U.S. Agency for International Development Project Identification Documents (PID) and Project Papers (PP) based upon search by commodity/product line or comprehensive PID/PP search in a given AID recipient country; (2) information regarding specific AID Congressional Presentations regarding specific AID projects; (3) information of published AID commodity procurement contract tenders; (4) Five compendiums on AID Commodity Import Programs (CIP) annually including (a) importer name lists in AID/CIP designated countries, (b) AID/CIP banks, and (c) AID/CIP approved commodities; (5) One compendium on an AID supported joint capital venture project; (6) [REDACTED] hours consultation (\$[REDACTED] per hour); (7) Consultation visits with AID missions (covers flat fee of \$[REDACTED]/annually); and (8) Spec writing and submission of one bid proposal (minimum) per year upon full development and deployment of computer system.

Also submitted with your application are several pages of material discussing problems faced by [REDACTED] in the exportation of equipment. The material states that [REDACTED] is a possible solution to [REDACTED]'s problem.

Financial support will be derived primarily from grants made by three foundations; [REDACTED], [REDACTED], and [REDACTED]. The remaining support will be derived from "subscribers."

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable and educational purposes.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that an organization is not organized and operated exclusively for one or more of the exempt purposes specified in section 501(c)(3) of the Code unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term "educational", as used in section 501(c)(3) of the Code, relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 513(d) of the Code defines the term "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(c)(3).

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513.

Rev. Rul. 68-225, 1968-1 C.B. 283, holds that a non-profit organization that provides consulting services for local businesses on matters relating to securing housing for their minority group employees is not engaged in an unrelated trade or business because the services provided contribute importantly to the accomplishment of the organization's exempt purposes and thus are substantially related to the organization's exempt purposes.

The Tax Court held, in B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), that an organization whose primary purpose was to offer consulting services for a fee to non-profit organizations was not operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code. The B.S.W. Group, Inc. was formed for the purpose of providing consulting services primarily in the area of rural-related policy and program development. An important goal of B.S.W. Group, Inc. was to improve the client's understanding of governmental policy processes and methods for becoming more effective in their work through public and private funding. B.S.W. Group, Inc.'s activities included direct consulting services, seminars, and research on related topics. The fees charged were set at or close to cost; however, the client's ability to pay was also taken into consideration. The Tax Court stated that B.S.W. Group, Inc.'s primary purpose was to operate a commercial business producing a profit since its services were in competition with commercial businesses.

Your primary activity is to provide consulting and other information services, such as [REDACTED], directly to non-exempt entities on a regular basis for a fee which approximates cost. The provision of consulting services for a fee, in the manner set out above, constitutes the conduct of a consulting business of

the sort which is ordinarily carried on by commercial ventures organized for profit. See B.S.W. Group, Inc. v. Commissioner, supra. Since you are primarily engaged in the conduct of an unrelated trade or business, section 1.501(c)(3)-1(e)(1) of the regulations provides that you may not be recognized as exempt under section 501(c)(3) of the Code.

You are also distinguishable from the organization in Rev. Rul. 68-225, supra. The organization in Rev. Rul. 68-225 conducts charitable and educational programs that foster and promote fair housing in a metropolitan area. In furtherance of those purposes, the organization performs consulting services in an effort to secure housing for minority employees of local businesses, an activity directly related to their charitable purpose of fostering and promoting fair housing. Unlike the direct relatedness of the consulting services performed by the organization in Rev. Rul. 68-225, your consulting services are directed at advancing the individual business interests of your subscribers and not toward advancing "education" within the meaning of section 501(c)(3) of the Code. As such, you are distinguishable from the organization in Rev. Rul. 68-225, in that your consulting services are not directly related to providing a charitable or educational service or promoting a charitable or educational activity.

As stated above, your activities are directed to promoting the pecuniary interests of your individual subscriber businesses. Thus, your primary activities serve the private interests of your subscriber businesses as opposed to a public interest. Since your activities serve a private, rather than a public interest, section 1.501(c)(3)-1(d)(2) of the regulations provides that you may not be recognized as exempt from federal income tax under section 501(c)(3) of the Code.

Based on the foregoing, we hold that you do not qualify for exemption from federal income tax as an organization described in section 501(c)(3) of the Code. Therefore, contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days from today and must be signed by one of your principal officers. When sending a protest or other correspondence with respect to this case, you will expedite its receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case, but rather to its location.

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[REDACTED]

You also have the right to a conference in this office after your protest statement is submitted. If you desire a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that, a declaratory judgment or decree under this section shall not be issued in any proceedings unless the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the District Director, Chicago, Illinois, which is your key district for exempt organization matters. Thereafter, any questions about your federal income tax status should be addressed to your District Director. The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

(signed) [REDACTED]

Chief, Exempt Organizations
Rulings Branch 1

cc: [REDACTED] mail 3-29-91 [REDACTED]

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Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]					
Surname	[REDACTED]	[REDACTED]					
Date	8/20/90	8/23/90					